

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAFIC SAADEH, :
Plaintiff, : 20 Civ. 1945 (PAE) (SN)
-v- :
MICHAEL KAGAN et al., :
Defendants. :
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PAUL A. ENGELMAYER, District Judge:

Currently pending is defendant Joshua Kagan's motion to dismiss the Second Amended Complaint. *See* Dkts. 87, 89. Before the Court is the October 20, 2021 Report and Recommendation of the Hon. Sarah Netburn, United States Magistrate Judge, recommending that the Court grant in part and deny in part the motion. Dkt. 124 ("Report"). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

DISCUSSION

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Netburn's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that failure to object within fourteen days will result in a waiver of objections and will preclude appellate review, Report at 20, the parties' failure to object operates as a waiver of appellate review, *see Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants in part and denies in part the motion to dismiss. The Clerk of Court is respectfully directed to terminate the motion at docket entry 87.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: March 3, 2022
New York, New York